

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

DEC 26 2008

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

BENNY PAKPAHAN,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 06-70056

Agency No. A079-643-140

MEMORANDUM*

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted December 17, 2008**

Before: GOODWIN, WALLACE, and RYMER, Circuit Judges.

Benny Pakpahan, a native and citizen of Indonesia, petitions for review of the Board of Immigration Appeals' order summarily affirming an immigration judge's ("IJ") decision denying his application for asylum, withholding of removal,

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

and protection under the Convention Against Torture (“CAT”). We have jurisdiction under 8 U.S.C. § 1252. We review for substantial evidence, *Nagoulko v. INS*, 333 F.3d 1012, 1015 (9th Cir. 2003), and we deny the petition for review.

We review only Pakpahan’s application for withholding of removal because he voluntarily withdrew his application for asylum and does not challenge the IJ’s determination that he did not establish eligibility for CAT relief.

Substantial evidence supports the IJ’s determination that the single beating Pakpahan suffered did not rise to the level of past persecution. *See Prasad v. INS*, 47 F.3d 336, 339-40 (9th Cir. 1995). In addition, even if the disfavored group analysis set forth in *Sael v. Ashcroft*, 386 F.3d 922, 927-29 (9th Cir. 2004), applies to claims for withholding of removal, Pakpahan failed to demonstrate that it was more likely than not he will be persecuted if he returns to Indonesia. *See Hoxha v. Ashcroft*, 319 F.3d 1179, 1184-85 (9th Cir. 2003).

PETITION FOR REVIEW DENIED.